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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 5 May 1997, at 10 a.m.

Chairperson: Mr. CEAUSU
(Vice-Chairperson)

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Zimbabwe (continued)

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 7) (continued)

Initial report of Zimbabwe (continued) (E/1990/5/Add.28; HRI/CORE/1/Add.55; E/C.12/Q/ZIM.1; E/C.12/CA/30)

1. At the invitation of the Chairperson, the members of the Zimbabwean delegation took places at the Committee table.

Article 8. Trade union rights (continued)

2. Mr. CHIFAMBA (Zimbabwe), replying to a question raised by Mrs. Bonoan-Dandan and Mr. Adekuoye concerning paragraph 76 of the initial report (E/1990/5/Add.28), explained that the Inter-Ministerial Committee on Child Labour had been established at the beginning of 1996 and had submitted a document to Parliament, the text of which would be transmitted to the Committee.

3. Replying to Mr. Texier, he explained that the purpose of the 14-day notice period for strikes that was stipulated by law was to allow a cooling-off period to encourage negotiation. It also allowed the possibility of participation by an industrial tribunal or the Ministry of Labour in order to help settle the dispute. Replying to Mr. Rattray, he explained that the Ministry of Labour could intervene during the notice period to prevent a strike in both the public and private sectors. The decisions of the industrial tribunal were not binding.

4. With regard to members of the Public Service, he said that the Labour Relations Act (E/1990/5/Add.28, para. 50) did not authorize public employees to strike, despite which they had struck for the first time in 1996. They were represented by the Public Service Association. However, the new law standardizing the labour legislation, which should be adopted in 1997, would extend the right to strike to members of the public service and provide a narrower definition of essential services. It would also set the conditions to be met for establishment of a trade union. Originally only one trade union per industry had been authorized.

5. He unfortunately could not provide all the information that had been requested on the cost of strikes and other related issues. He suggested that the members of the Committee should request that information in writing from his Government.

6. Mr. TEXIER, citing ICFTU's comments on the right to strike in Zimbabwe (note by the secretariat E/C.12/CA/30), said that in his view the right to strike was too limited in Zimbabwean legislation and practice, and that serious progress in that area was needed.

7. Mr. ADEKUOYE asked whether the restrictions imposed on trade-union federations under the Labour Relations Act were also applicable to employers' associations.

8. Mr. PILLAY asked whether employees in the public and private sectors who were made redundant received a redundancy payment.

9. Mr CHIFAMBA (Zimbabwe) said that it was justified for employees to give notice before striking. They were not forbidden to strike and no one had ever been prosecuted for striking, even when the notice period had not been respected. The Labour Relations Act did not contain any provisions on freedom of association for employers, and he did not know whether the same would be true of the new law, whose text he promised to transmit to the Committee. The new law would also deal with the question of terminal benefits, to which not all categories of workers were currently entitled. Furthermore, such benefits were granted in accordance with the circumstances under which the service ended, for example, in cases of unfair dismissal. Some employees also paid into compensation schemes, and some companies undergoing restructuring paid out terminal benefits.

10. Mr. TEXIER suggested that it should be recommended that the Zimbabwean Government ratify ILO Conventions Nos. 87, 98 and 151 as soon as possible, in accordance with paragraph 49 of the initial report (E/1990/5/Add.28).

Article 9. Right to social security

11. Mr. ADEKUOYE requested particulars of the amounts and the basis of calculation of retirement benefits for public servants. He also wished to know whether they were linked to inflation or the wages index. What was the age of retirement in Zimbabwe? What was the wage level in the public service in comparison with remuneration in the private sector? Were survivor's benefits paid and according to what terms?

12. Mr. RATTRAY asked whether the National Health Insurance scheme under study (written replies, para. 32) was going to be introduced. If so, would it be a contributory system and would it be administered by the public sector or by private insurance companies? Would non-contributors be covered?

13. The CHAIRPERSON, citing paragraph 64 of the initial report (E/1990/5/Add.28), suggested that it would be useful to have statistics on the number of people covered by the old age pension scheme and on those covered by allowances for disability due to a work-related injury or disease.

14. Mr. CHIFAMBA (Zimbabwe) said that the statistics that had been requested on the basis for calculation of pensions, on wages and on survivor's benefits would be transmitted to the Committee by his Government. It could also send to the Committee, once they were published, the recommendations of the National Social Security Authority (NSSA) concerning the establishment of a social security scheme. He believed that the Authority would be able to administer the scheme and that non-contributors would also be covered. The age of retirement was 60 for men and 55 for women.

15. Mr. RIEDEL suggested that, in its next report, the delegation should provide specific information in reply to the question in paragraph 32 of the list of issues (E/C.12/Q/ZIM/1) and report to the Committee on the progress achieved in that area.

Article 10. Protection of the family, mothers and children

16. The CHAIRPERSON noted that written answers had not been furnished to the questions in paragraphs 36 and 37 of the list of issues (E/C.12/Q/ZIM/1). He realized that the Zimbabwean delegation did not have any statistical data, but it might nevertheless give some details to enable the Committee to have a better idea of the situation.

17. Mr. PILLAY asked whether Zimbabwe had a law on prevention of violence against women and children and whether centres to shelter battered women and ill-treated children had been established? He would like further information on the legal situation of children born out of wedlock (written replies, para. 35). Could they take their father's name? Were they disadvantaged in terms of succession?

18. Mr. SA'DI said that he was concerned at the fact that girls could be forced into marriage when article 10 of the Covenant unequivocally prohibited that. It was true that the legislation attempted to prevent forced marriages, but in fact that tribal practice continued to take place under common law. Was Zimbabwe seriously considering putting an end to it?

19. Regarding the reply to question 34 of the list of issues (E/C.12/Q/ZIM/1), he feared that the desire to balance the interests of the employer against the rights of the mother went against the spirit of article 10. The language used in article 10, paragraph 2, made any such interpretation impossible.

20. Mrs. BONOAN-DANDAN said that she found the Zimbabwean delegation's replies concerning child labour inadequate. She would like more detailed information, especially as that problem was quite widespread in Zimbabwe, and according to an ILO report and one by the United States Department of State, the Government afforded child workers scarcely any protection. She was aware that the representative of Zimbabwe did not have any statistics, but he might at least give an indication of the steps the Government was taking in that area.

21. According to a 1996 report by the World Federation of Methodist Women, child prostitution was on the rise, in particular in the rural areas hit by the drought. A similar trend was noted with regard to incest and rape: 47 per cent of girls were raped before the age of 15, but only 15 per cent of cases were reported to the police, because of the humiliating treatment of rape victims in police stations. What steps was the Government taking with regard to rape and police treatment of girls who were raped?

22. Mr. TEXIER, reverting to child labour, said that the most disturbing aspect was the fact that, according to an ILO report, the situation of child workers was deteriorating as a result of the structural adjustment programmes. He would like further information on child labour and all related issues,

namely child prostitution and the reasons why children of school age did not attend school. What did the delegation think of the information given in the ILO report mentioned earlier, according to which children living in the Mozambican refugee camps were receiving insufficient schooling?

23. With regard to maternity benefits, it was his understanding that women were entitled to maternity leave with 60 or 70 per cent of their salary, according to the case. Was the Zimbabwean Government, like many countries, considering paying women on maternity leave their entire salary?

24. Mr. ADEKUOYE said he was aware that the concept of the illegitimate child did not exist in Zimbabwe, but the situation of children born out of wedlock raised problems from the points of view of education, maintenance, school enrolment, etc. What recourse was available to a woman or child whose right to maintenance was not being respected? Furthermore, what recourse was available in the case of separation or divorce when a spouse did not fulfil his maintenance obligations?

25. Structural adjustment programmes were forcing many children to work and were leading to an increase in the number of street children. He wished to know whether the Government had introduced educational services for children lawfully employed or working as street pedlars.

26. He also wished to know what steps the authorities had taken to combat early pregnancies: were there family planning or sex education programmes in the schools?

27. Mr. RIEDEL asked for further information on the legislation in force and remedies available with regard to maintenance and inheritance in Zimbabwe.

28. Mr. GRISSA said that the Government's reply to question 35 did not describe the actual situation of children born out of wedlock. The right to equal protection of the law certainly did exist, but only in theory; what institution actually took care of such children, who were often abandoned by their family to a mother who had absolutely no means of caring for them?

29. Mrs. JIMENEZ BUTRAGUEÑO said that she would like to know which so-called traditional practices could hinder enjoyment of the right to health. She was particularly concerned about genital mutilation and asked what steps the Government was taking to combat that scourge, the consequences of which affected girls throughout their lives.

30. Mr. CHIFAMBA (Zimbabwe) replied that there was no law dealing explicitly with violence against women and children, which fell within the purview of the Miscellaneous Offences Act. Since the Beijing Conference, women's lobby groups had been sparing no effort to see that a specific law was adopted, or, if not, that the legislation in force was improved. There were several organizations, principally NGOs, working with battered women. As far as ill-treated children were concerned, there was a special fund for children's survival and development, which was sponsored by Zimbabwe's First Lady.

31. With regard to equality of rights between legitimate children and those born out of wedlock, the legislation was clear but the actual situation might

differ according to the parents' situation. In the case of a wage-earning father, the child's maintenance might be deducted at the source. But the situation was different in the rural areas, where the lack of access to family planning programmes made that a widespread problem. The extended family, which was the dominant family structure in the rural areas, was first and foremost a production unit, and an extra child was an advantage. For that reason all children were treated equally.

32. Replying to Mr. Sa'di, he said that Zimbabwe took the problem of early marriage very seriously, even if prosecutions in that area were rare. Thanks to lobby groups and an active press, such questions were increasingly in the limelight. The habits in question were firmly rooted in the society, however, and were perpetuated by extreme poverty.

33. Concerning maternity leave, payment of 60 or 70 per cent of the salary was an initial measure, with the ultimate goal being payment of the entire salary as the Covenant became implemented. The unemployment level in the country was so high that employers were not inclined to pay a female employee her entire salary during three months of absence, when they knew that they could easily find available men on the labour market throughout the year.

34. He pointed out that even the ILO document referred to by several members of the Committee contained no generally-accepted definition of the problem of child labour. Furthermore, ILO did not distinguish between commercial agriculture and subsistence agriculture. In Zimbabwe, whose economy was predominantly agricultural, it was customary for children to help their parents in the fields after school. Unlike ILO, his country did not consider such activities to be work, especially as, even in school, children learned very early how to meet their own needs. In commercial agriculture, on the other hand, children were expected to help in the cotton and coffee harvests, in exchange for education they were given in schools built by the planters. Although such work did not hamper their schooling, the Government was aware that it had to redress that situation.

35. Although the problem of child labour did not exist in industry, at least in the structured sector, it did exist in the mining sector. The 1992-1993 drought, the most serious Zimbabwe had ever experienced, had forced many farmers and their children to go into gold washing, which was far more lucrative than farm work.

36. The Government had introduced education and vocational training programmes for street children. The municipal authorities also made every effort to rehabilitate such children. His Government did not deny that a child labour problem existed but believed that things should be kept in perspective. Moreover, the 1996 report of the United States Department of State indicated that the problem was tending to decline.

37. Rape was now very harshly punished in Zimbabwe, the minimum prison sentence being seven years. Child prostitution was on the rise, perhaps because of the economic difficulties, but the problem was not as serious as was claimed. Thanks to family planning and sex education programmes in the schools, early pregnancies were tending to decrease, especially as fear of AIDS was encouraging people to take protective measures.

38. Replying to Mrs. Bonoan-Dandan's question concerning the humiliating treatment of rape victims by the police, he was pleased to say that the new chief of police had taken several steps to remedy that situation: wide distribution of the code of conduct for all police officers receiving complaints from rape victims, issue of an identification number to policemen in order to facilitate any complaints, etc.

39. Replying to Mr. Texier, he strongly denied the allegation that some children did not go to school because they were practising prostitution. As for a child labour problem among the Mozambican refugees, he reminded members that the refugees had returned to their country in 1990. Some might have stayed in Zimbabwe and, finding themselves in an irregular situation, been exploited by the farmers.

40. Concerning the female sexual mutilation mentioned in the 1995 report of the United States Department of State entitled "Country Report on Human Rights Practices for 1994, Zimbabwe", he said that such practices were in fact very rare in Zimbabwe.

Article 11. Right to an adequate standard of living

41. The CHAIRPERSON noted that the Zimbabwean Government's written replies contained no information relating to questions 38-43 of the list of issues and invited the members of the Committee to make comments and ask additional questions.

42. Mrs. BONOAN-DANDAN, supported by Mrs. JIMENEZ BUTRAGUEÑO, suggested that the delegation should initially be asked to reply to the questions in the section on article 11, before proceeding to additional questions. In reference to the statement in November 1996 by the President of the Republic of Zimbabwe concerning the establishment of a food and nutrition council, she would appreciate some information on the scope of that body's work.

43. Mr. PILLAY said he regretted the failure of the report to provide information on forced expulsions. In particular, he would like to know what steps the Government had taken with respect to the resettlement projects that had resulted in forced expulsions and what remedies were available in that area.

44. Mr. ANTANOVICH, noting that the drop in the standard of living mentioned in the report was largely attributed to factors such as the drought or the economic structural adjustment programme, said he would appreciate it if the delegation would also provide information on the steps taken by the authorities to ensure durable development for the national economy.

45. Mr. GRISSA, pointing out that paragraphs 103 and 105 of the report indicated that the number of housing units would still be insufficient by the year 2000, asked what steps the Government intended to take to improve the situation of the homeless, who represented 0.08 per cent of the population of Harare.

46. Mr. TEXIER noted the report's indication that the Government was aware of the adverse effects of the economic structural adjustment programme on

disadvantaged groups and that a social programme was about to be introduced. He would like particulars of the steps taken by the authorities to offset the adverse effects of the ESAP. He endorsed Mr. Grissa's remark concerning the housing shortage and homeless persons.

47. Mr. CEVILLE, referring to paragraphs 107 and 116 of the report, asked what measures the Government had taken to resettle the inhabitants of the "illegal" sector on other planned residential sites or to upgrade the illegal settlements.

48. Mr. ADEKUOYE asked what criteria were used to set the poverty threshold, which, as indicated in paragraph 85 of the report, was $400. He would also like to know whether every precaution had been taken to make sure that the maize grain transport system described in paragraph 88 was not being taken advantage of by middlemen.

49. Mr. RATTRAY, noting that the housing crisis in Zimbabwe was fully described in paragraphs 100, 102 and 103 of the report and that efforts focused on the formation of cooperatives to build houses and the establishment of the National Housing Fund (paras. 118, 128 and 129 respectively), said he would like to know whether the Zimbabwean delegation felt that the international community should be asked for financial assistance to help Zimbabwe achieve the right to adequate housing within a reasonable period of time or whether that should be done through a better distribution of the country's budgetary resources.

50. Mr. CHIFAMBA (Zimbabwe), referring to the problem of the homeless, said that the Government hoped to achieve its target of housing for all by the year 2000, chiefly through assistance from the private sector. Replying to Mr. Antanovich, he said that the authorities hoped that the Economic Structural Adjustment Programme would secure durable development for Zimbabwe, but recognized that certain sacrifices would be involved at the outset. The Food and Nutrition Council was operational and focused its efforts on supplementary food programmes, in particular for schools.

51. Turning to question 38 of the list of issues, he said that unlike the drought, the Economic Structural Adjustment Programme had not in itself had adverse effects on the enjoyment of the right to sufficient food. It had caused prices to rise, but wages had kept pace. Other programmes had been introduced to assist the most vulnerable groups. The members of the Committee could be provided with statistics later on. In reply to question 39, he said that most of the existing special public programmes were described in the report and that, although they did not enable the most vulnerable sectors of the population to maintain an adequate standard of living, they at least helped them survive. Replying to question 40, he said that he did not know the details of the Housing and Building Act but that he could ask the competent authorities in Harare for information. He could nevertheless assure the Committee that the Government did not conduct such practices arbitrarily. It was also possible to apply to the courts for redress. In reply to question 41, he said that the National Housing Fund was State-financed and that, in view of the housing crisis in the country, a high percentage of the Fund's needs was currently being covered.

52. Replying to question 42, he said that the National Housing Fund did not grant loans only to civil servants, as the Committee would note in paragraph 128 of the report. Regarding question 43, he said that the Government was not the only entity responsible for housing construction. It was also the responsibility of employers in the private sector, real estate companies, etc. Thus it had been possible for the State to withdraw gradually from housing construction during the period under review, mainly in response to the need to reduce public spending.

53. Replying to Mr. Texier, he said that one of the main reasons for the difficulties raised by the Economic Structural Adjustment Programme was the fact that it had been introduced during the drought, which had forced the State to redirect its development resources towards food programmes for the most disadvantaged groups. Regarding housing, he explained that the illegal structures were being destroyed and their occupants resettled in new dwellings equipped with basic facilities (water, electricity, etc.).

54. Replying to Mr. Adekuoye, he said his delegation had not received the information requested on wages and the calculation of the poverty threshold He had, however, taken note of those requests, and would do his best to reply as soon as possible. He said that the problem of middlemen taking advantage of the maize grain transport system was not really the kind of problem with which Zimbabwe was confronted.

55. Mr. ADEKUOYE asked what happened to the occupants of illegal structures in the time between the demolition of their old dwelling and the completion of their new one.

56. Mrs. JIMENEZ BUTRAGUEÑO said that she would like further information on the most vulnerable groups of the population (old people in difficult situations, etc.).

57. Mr. CHIFAMBA (Zimbabwe) replied that the occupants of illegal structures being demolished were temporarily taken into camps and that the most vulnerable groups of the population were old people, children, in particular AIDS orphans and migrant workers alone in Zimbabwe.

Article 12. Right to health

58. Mr. CHIFAMBA (Zimbabwe) said that he could not say exactly what percentage of the GDP was allocated to health or what had been the trend of health allocations over the past five years. That information would be furnished at a later date. In connection with question 45, he explained that traditional medicine, which had been the only type of medicine available to most inhabitants during the colonial era, was continuing to play a leading role during the period of transition towards an independent modern State. Being aware of the importance still attached to traditional medicine, the Government had established the National Traditional Healers Association of Zimbabwe, whose purpose was to help its members improve their working methods by incorporating scientific and medical developments. Many primary health-care centres had been established in the rural areas and were heavily attended by the population. The focus was on cleanliness, hygiene and in general prevention. An atmosphere of cooperation between the traditional

medicine and modern medicine sectors had been established. The result of the efforts to combat the endemic diseases mentioned in question 46 of the list of issues had been extremely encouraging so far. That was partly due to the emphasis placed on cleanliness and hygiene. Although leprosy, rabies and the plague had declined considerably in Zimbabwe, malaria was still a serious problem, with the appearance of new drug-resistant types.

59. Concerning question 47 of the list of issues, he said that many measures had been taken under the AIDS Prevention and Control Programme to combat the spread of AIDS and HIV, including the establishment of information agencies. The percentage of children with AIDS had declined considerably; more precise figures would be provided in the next report.

60. Statistics on the negative effects of the Economic Structural Adjustment Programme, especially in the fields of children's education and health care, would be included in the next periodic report. The supplementary feeding programme was essentially conducted by the Food and Nutrition Council, which evaluated the population's nutritional needs and then sought to remedy deficiencies by providing supplementary food. Family planning was conducted by qualified staff and consisted of making the population aware of the rules of hygiene and cautioning women against the FOUR TOOS mentioned in paragraph 180 of the report, but also and increasingly, to avoid the spread of sexually-transmitted diseases, especially AIDS.

Articles 13, 14 and 15

61. Mr. RIEDEL expressed surprise at the statement in paragraph 205 of the report to the effect that the Government could not construct schools on land which did not belong to it but could only persuade, and would appreciate clarification when the reply to question 52 concerning the same paragraph was given.

62. In connection with article 14 of the Covenant and Zimbabwe's written reply to question 56 of the list of issues, he would like to know why there was no legislation introducing free primary education when article 14 of the Covenant required States parties to undertake to work out and adopt a detailed plan of action for the progressive implementation of the principle of compulsory education free of charge for all. The report indicated that much had been done to achieve that goal in Zimbabwe, and that was certainly expensive. However, in view of the obligation for States parties to establish the detailed plan mentioned in the article, he would like to know what steps the Government had taken and was taking to achieve that goal, especially since the preparation of the report and adoption of the Education Act mentioned in the written replies (p. 11).

63. Mr. THAPALIA said that there was a conflict between the need for primary education to be compulsory and available free to all (Covenant, art. 2 (a)) and section 5 of the Education Act (written replies, p. 11) which required pupils to pay fees while making it compulsory for them to attend school. How many people were illiterate? What proportion of the GDP and the national budget was allocated to education? Was human rights education part of the school and university curricula?

64. Mr. GRISSA said that he would appreciate some clarification of the reply to question 51 of the list of issues, and would like in particular to know the inflation rate, given that the sums allocated by the Government to education, which had not decreased as such, had nevertheless not increased and had not offset inflation. With regard to the written reply to question 52, there did seem to be a contradiction between the Act, which provided for the payment of school fees (see reply to question 56, p. 11 of the written replies) and the practice described in the reply to question 52 (written replies, p. 14) which stated that the law prohibited dismissing children from school for non-payment of school fees.

65. Mr. TEXIER, noting that article 13, paragraph (2) (a), was not being fully respected, said that it was essential for Zimbabwe to submit, within a reasonable period of time, a detailed plan of action for the progressive implementation of the principle of compulsory education free of charge for all stipulated in article 14 of the Covenant.

66. Mr. ANTANOVICH asked for further information on the international assistance mentioned in paragraph 230 of the report and asked whether a project was under way to lower the high drop-out rate among girls.

67. Mr. SA'DI noted that the Covenant placed cultural rights on an equal footing with economic and social rights but that cultural rights were not discussed in detail in Zimbabwe's initial report. Yet the country had 12 indigenous languages and several major ethnic groups. Cultural rights should therefore have been given more thorough treatment.

68. Mr. CHIFAMBA (Zimbabwe) replied that the State was responsible for teachers' salaries even when the schools involved were not State schools. The Government focused considerable efforts on education, as had been stated in the report. Farm owners were encouraged to provide schools for the children of their employees. Schools were being built in the rural areas, in order that no child would be living over 8 km from a school. It was true that section 5 of the Education Act, which stipulated that education was compulsory, nevertheless did not make it free of charge. After independence, primary education had been both free and compulsory, but as the economic situation made that impossible, it had been decided that parents who could afford to, especially those living in urban areas, would meet part of their children's school fees. Nevertheless, the Government remained committed to the principle of free education, and the current arrangement might be changed when the economic situation had improved. Further information concerning the number of illiterates would be provided later. The answer to the question whether the teaching of human rights was included in school and university curricula was yes, although less importance was given to economic, social and cultural rights than to civil and political rights. His Government was endeavouring to maintain the portion of the budget allotted to education, which was one of the highest items of expenditure.

69. The higher drop-out rate among girls was due to the number of early pregnancies among teenage girls, on the one hand, and school fees, on the other, since parents preferred to invest in the education of boys rather than girls. Attitudes were changing, however, for girls were helping their parents increasingly often, sometimes even more than their brothers, and they were

more attached to their parents. The report's neglect of cultural rights did not mean that nothing was done to promote cultural rights in Zimbabwe. Twelve dialects were spoken in the country, but teaching was dispensed in only two of them. On the other hand, there were numerous radio programmes broadcast in all the languages, some of which were even spoken outside the country. Cooperation with neighbouring countries where some of those languages were spoken was being considered.

70. The contradictions in the report or the written replies that had been pointed out by some members were more apparent than real and could be attributed to clumsy drafting. His country would try to see to it that that did not recur. His delegation's dialogue with the Committee had been very worthwhile and had given it a better idea of the importance that should be paid to the Covenant.

71. The CHAIRPERSON said that the Committee had completed its consideration of the initial report of Zimbabwe. It trusted that Zimbabwe's next periodic report would contain all the additional information which had been requested by the members of the Committee.

The meeting rose at 1.05 p.m.